

REMARKS

In the Office Action, the Examiner rejected claims 1, 3-9, 11-17, and 19-24, and objected to claims 2, 10, and 18. By this paper, Applicants have amended claims 4-8 and 12-16 for clarification of certain features to expedite allowance of the claims. No new matter has been added. Upon entry of these amendments, claims 1, 3-9, 11-17, and 19-24 are pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Allowable Subject Matter

In the Office Action, the Examiner stated that claims 2, 10, and 18 would be “allowable of rewritten in independent form including all of the limitations of the base claim and any intervening claims.” Office Action, Page 5. Applicants would like to thank the Examiner for noting the potential allowability of these claims, but believe that based on the arguments and remarks set forth below, all of the pending claims are allowable in their present form.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 4-8 and 12-16 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter

which the applicant regards as the invention. *See* Office Action, page 2. Specifically, the Examiner stated:

Claims 4, 6, 7, 8, 12, 15, and 16 recites the limitation “the term”. There is insufficient antecedent basis for this limitation in the claim.

Claims 5, 6, 13, and 14 recites the limitation “the passive throttling register”. There is insufficient antecedent basis for this limitation in the claim.

Id. Applicants apologize for this typographical error and have amended claims 4-8 and 12-16 to address the Examiner’s concerns. In particular, Applicants have amended claims 4-8 to depend from claim 2 and amended claims 12-16 to depend from claim 10. In light of these amendments, Applicants respectfully request that the Examiner withdraw the pending rejection of claims 4-8 and 12-16 under Section 112.

Claim Rejections under 35 U.S.C. § 103(a)

As stated above, the Examiner rejected claims 1, 3, 9, 11, 17, and 20-24 as being unpatentable over Emerson et al. (U.S. Patent No. 6,476,854, hereafter referred to as “the Emerson reference”) in view of Chin et al. (U.S. Patent No. 5,299,315, hereafter referred to as “the Chin reference”). Applicants respectfully traverse these rejections.

Applicants respectfully submit that the Emerson reference does not qualify as prior art against the above-referenced application under 35 U.S.C. § 103. In accordance with 35 U.S.C. § 103(c) and Pub. L 106-113, § 4807 enacted November 9, 1999, subject matter developed by another person which qualifies as prior art only under subsection (e) of 35

U.S.C. § 102, shall not preclude patentability where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment of the same person.

Here, the Emerson reference and the claimed invention were, at the time the invention was made, owned by the same assignee (Compaq Information Technologies Group, L.P. -- now a part of Hewlett Packard Company) or subject to an obligation of assignment to the same assignee. Since the present application was filed after November 29, 1999 and since the Emerson reference issued after the present application was filed, it is clear that the Emerson reference does not qualify as prior art under 35 U.S.C. § 102(e)/103(c).


Without the Emerson reference, the Examiner's rejections under 35 U.S.C. § 103 regarding claims 1, 3, 9, 11, 17, and 20-24 are moot, because none of the art of record that is available as prior art, either alone or in combination, discloses or suggests all the elements recited in the claims 1, 3, 9, 11, 17, and 20-24. Accordingly, Applicants respectfully request withdrawal of the Examiner's rejections and allowance of claims 1, 3, 9, 11, 17, and 20-24.

Conclusion

Applicants respectfully submit that all pending claims are in condition for allowance. However, if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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